UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

HAROLD STAHL, et al.,	)	
	)	
Plaintiffs,	)	Case No. 2:03cv00597
	)	
vs.	)	Judge Smith
	)	
BOB TAFT, Governor of Ohio, et al.,	)	Magistrate Judge King
	)	
Defendants	)	

AGREED ORDER AND INJUNCTION

Plaintiffs have alleged, and Defendants concede, that Ohio's statutory scheme that restricts out-of-state wineries from selling and shipping wine directly to customers in Ohio is unconstitutional under the authority of *Granholm v. Heald*, 125 S.Ct. 1885 (May 16, 2005).

The specific laws at issue in this case are Ohio Revised Code §§ 4303.25 and 4303.29, and Ohio Administrative Code §§ 4301:1-1-22(A) and (C) and 4301:1-1-23, which apply to all alcoholic beverages. The only beverage at issue in this case is wine, and this Order does not affect the validity of those statutes with respect to other types of alcoholic beverages, such as beer and spirituous liquor.

IT IS THEREFORE ORDERED and ADJUDGED that Ohio Revised Code §§ 4303.25 and 4303.29, and Ohio Administrative Code §§ 4301:1-1-22 (A) and (C) and 4301:1-1-23 violate the Commerce Clause to the extent that they prohibit out-of-state wineries from selling and delivering wine directly to Ohio residents.

IT IS FURTHER ORDERED that Defendants are ENJOINED from enforcing Ohio Revised

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Code §§ 4303.25 and 4303.29, and Ohio Administrative Code §§ 4301:1-1-22 (A) and (C) and 4301:1-1-23, to the extent that they prohibit out-of-state wineries from selling and shipping wine directly to Ohio residents.

IT IS FURTHER ORDERED that until a legislative amendment or appropriate rule change is enacted, Defendant Division of Liquor Control may use the form and procedure for direct shipment of wine from out-of-state wineries direct to Ohio consumers that is set forth in schedule A to this Order.

IT IS FURTHER ORDERED that Defendants will pay costs and reasonable attorneys' fees to Plaintiffs pursuant to 42 U.S.C. § 1988, in an amount to be determined in a subsequent proceeding.

This the 19 day of July, 2005.

George C. Smith

GEORGE C. SMITH
UNITED STATES DISTRICT JUDGE

DIRECT SHIPMENT OF BEER & WINE TO OHIO RESIDENTS

OHIO EXCISE AND USE TAX FILING

Ohio Department of Commerce
Division of Liquor Control
Beer & Wine Section
6606 Tussing Road, P.O. Box 4005
Reynoldsburg, Ohio 43068-9005
614-644-2411

A resident of the state of Ohio may import into the state of Ohio beer or wine, provided that:

(1) The beer or wine is for the Ohio resident's personal use and not for resale
(2) The Ohio resident is an individual who is twenty-one years of age or older
(3) The laws of the United States allow the shipment of the beer or wine into the United States
(4) All taxes due the state of Ohio shall be paid prior to the importation, or within thirty days of the receipt of beer or wine

DIVISION USE ONLY

Received ______________
Date

Sent to Taxation ______________
Date

____
Signature

NAME OF OHIO RESIDENT

Name ______________

Street Address ______________

City/State/Zip ______________ Phone ______________

NAME OF COMPANY FROM WHOM BEER OR WINE IS PURCHASED

Name ______________

Street Address ______________

City/State/Zip ______________ Phone ______________

Date of entry of the alcoholic beverages into Ohio ______________

OHIO EXCISE AND USE TAX SECTION – for questions regarding taxes, call ***614-466-7351***

Effective January 1, 1993, Ohio **EXCISE TAX** on beer and wine is:

	Per Gallon	Per Case
Wine (containing 4% - 14% ABV)	$0.32	$0.76
Wine (containing more than 14% - 21% ABV)	$1.00	$2.38
Vermouth	$1.10	$2.62
Sparkling/carbonated Wine & Champagne	$1.50	$3.57
Beer (per case of 24 – 12 oz. cans/bottles)		$0.40

USE TAX is calculated on the purchase price x the applicable county (where you reside) sales/use tax rate:
(Example: $250.00 x 7% = $17.50)

TYPE OF ALCOHOLIC BEVERAGE (wine/vermouth/sparkling/beer)	ALCOHOL CONTENT (% ABV – wine only)	AMOUNT	GALLONS/ BOTTLES/ OR CASES	PURCHASE PRICE	AMOUNT OF ***USE TAX*** DUE	AMOUNT OF ***EXCISE TAX*** DUE
				TOTAL:	$	$
TOTAL AMOUNT TO BE REMITTED (USE TAX DUE + EXCISE TAX DUE)						$

MAKE CHECK OR MONEY ORDER PAYABLE TO: TREASURER OF STATE
Mail check and form to Ohio Division of Liquor Control at the above address

SWORN STATEMENT:

I declare under penalties of perjury that I am 21 years of age or older, that this filing to the best of my knowledge and belief is true, correct and complete, and that the tax submitted to the State of Ohio is accurate for the above purchases.

____
Signature of Applicant Date